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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/644,521	08/19/2003	Vick Bagoian	0470.002	5972

7590 09/07/2004

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EXAMINER

BUI, LUAN KIM

ART UNIT PAPER NUMBER

3728

DATE MAILED: 09/07/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/644,521	<b>Applicant(s)</b> BAGOIAN, VICK	
	<b>Examiner</b> Luan K Bui	<b>Art Unit</b> 3728	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 06 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) 1-12 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 13-18 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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1. Applicant's election of Group II, Figures 6 and 7 in the reply filed on 7/6/2004 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 1-12 have been withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim.

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

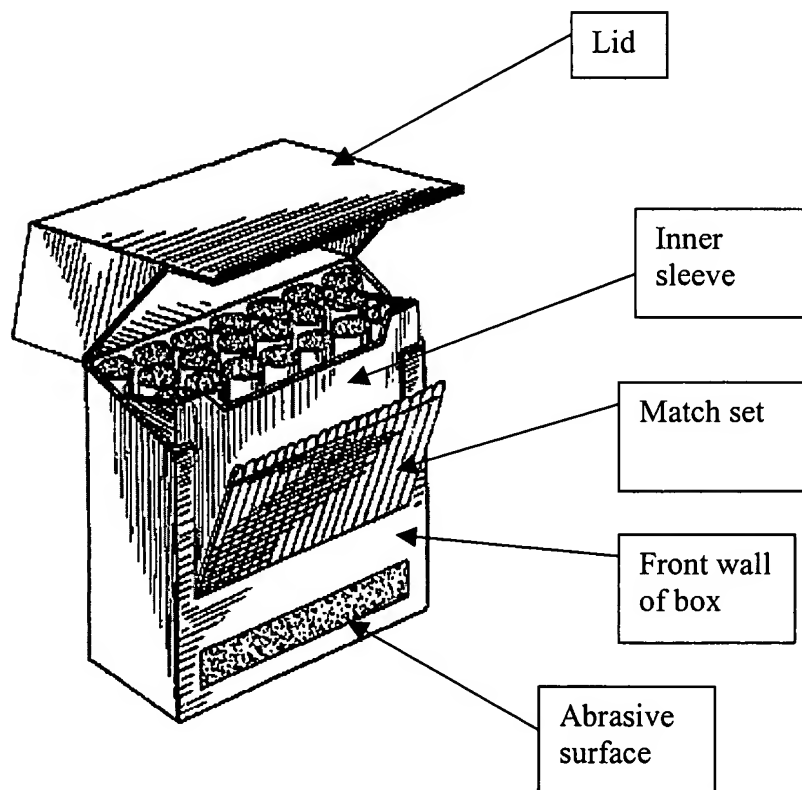
A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 13, 14 and 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Yoo (5,096,057). Yoo discloses an integrated cigarette pack and match container system (100) comprising front (1, 8), rear (5), side and bottom walls (6) cooperating to define a box (20) having a lower concavity, a lid (10) having an upper concavity hinged to an upper portion of the rear wall, an inner sleeve (3) received at least within the lower concavity and a match set (4) integrally formed in the front wall and supporting a plurality of individual matches extending therefrom and having stems and heads. The match is accessible to a user when the lid is in the open position and fully contained within the container when the lid is in the closed position. Yoo further discloses an abrasive match-striking surface (7) on at least one the walls.

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4. Claims 13, 14, 16 and 17 are rejected under 35 U.S.C. 102(b) as being anticipated by Weinberg (D.273,660). Weinberg discloses an integrated cigarette pack and match container system comprising front, rear, side and bottom walls cooperating to define a box having a lower concavity, a lid having an upper concavity hinged to an upper portion of the rear wall, an inner sleeve received at least within the lower concavity and a match set integrally formed in the front wall and supporting a plurality of individual matches extending therefrom and having stems and heads. The match is accessible to a user when the lid is in the open position and fully contained within the container when the lid is in the closed position. Weinberg further discloses an abrasive match-striking surface on at least one the walls.



***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rice et al. (3,065,849; hereinafter Rice'849) in view of Yoo (5,096,057) or Weinberg (D.273,660).

Rice'849 discloses an integrated cigarette pack and match container system comprising front (12), rear (10), side (14, 16) and bottom walls (40) cooperating to define a box having a lower concavity, a lid (42) having an upper concavity hinged to an upper portion of the rear wall, an inner sleeve (26, 28) received at least within the lower concavity and a match set (46) formed in the front wall and supporting a plurality of individual matches extending therefrom and having stems and heads. The match is accessible to a user when the lid is in the open position and fully contained within the container when the lid is in the closed position. Rice'849 also discloses the other claimed limitations except for the match set being integrally formed in the front wall. Yoo teaches an integrated cigarette pack and match container system (100) comprising front (1, 8), rear (5), side and bottom walls (6) cooperating to define a box (20) having a lower concavity, a lid (10) having an upper concavity hinged to an upper portion of the rear wall, an inner sleeve (3) received at least within the lower concavity and a match set (4) integrally formed in the front wall and supporting a plurality of individual matches extending therefrom and having stems and heads. The match is accessible to a user when the lid is in the open position and fully contained within the container when the lid is in the closed position. Weinberg shows an integrated

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cigarette pack and match container system comprising front, rear, side and bottom walls cooperating to define a box having a lower concavity, a lid having an upper concavity hinged to an upper portion of the rear wall, an inner sleeve received at least within the lower concavity and a match set integrally formed in the front wall and supporting a plurality of individual matches extending therefrom and having stems and heads. The match is accessible to a user when the lid is in the open position and fully contained within the container when the lid is in the closed position. It would have been obvious to one having ordinary skill in the art in view of Yoo or Weinberg to modify the system of Rice'849 so the match set is integrally formed in the front wall to reduce the step of securing the match set to the cigarette pack as disclosed by Rice'849 and since it has been held that forming in one piece an article which has formerly been formed in two pieces and put together involves only routine skill in the art. *Howard v. Detroit Stove Works*, 150 U.S. 164 (1893).

7. Claim 18 is rejected under 35 U.S.C. 103(a) as being unpatentable over the references as applied to claim 17 above, and further in view of Grayson (6,644,470). To the extent that Rice'849 fails to show the selected quantity of matches comprises a reserve quantity of matches, Grayson shows an integrated cigarette pack and match container system comprising a match set (44, 50) having a quantity of matches coordinate with a quantity of cigarettes packaged with the system and a reserve quantity of matches (Figure 4). It would have been obvious to one having ordinary skill in the art in view of Grayson to modify the system of Rice'849 so the quantity of matches includes a reserve quantity of matches to provide more convenience for the user.


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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Luan K. Bui whose telephone number is (703) 305-5861. If in receiving this Office Action, it is apparent to Applicant that certain documents are missing from the record for example copies of references cited, form PTO-1449, form PTO-892, etc., requests for copies of such papers should be directed to TC 3700 Customer Service at (703) 306-5648.

Any inquiry of a general nature or relating to the status of this application should be directed to the Customer Service whose telephone number is (703) 872-9301. Facsimile correspondence for this application should be sent to (703) 872-9306 for Formal papers and After Final communications.

lkb  
September 2, 2004



Luan K. Bui  
Primary Examiner